

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 498 of 1984****For Approval and Signature:****HONOURABLE MR.JUSTICE KS JhasRI**

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SUNITA @ SAVITRI BHOJRAJ TAHEL RAM SADHWANI - Appellant(s)
Versus
JASSUBHAI MANABHAI MARWADI DELETED AS PER COURT ORDER & 1
- Defendant(s)

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Appearance :

MR KH BAXI for Appellant(s) : 1,
DELETED for Defendant(s) : 1,
NOTICE NOT RECD BACK for Defendant(s) : 2,
MR PRASHANT G DESAI for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE KS JhasRI**Date : 01/09/2006****ORAL JUDGMENT**

1.0 By way of this appeal, the appellant has challenged the judgment and award of the Motor Accident Claims Tribunal No.II(Auxi.), Ahmedabad passed in M.A.C.P. No. 160 of 1981 dated 26.07.1983 whereby the Tribunal dismissed the said petition.

2.0 The brief facts of the case are that on 05.06.1981, the present appellant was traveling

in a bus owned by present opponent No.2 and when she tried to alight from the said bus she fell down. On account of the said accident, the appellant received serious bodily injuries, and hence, she filed a petition claiming an amount of Rs.75,000/- by way of compensation.

2.1 In the said petition, after hearing the parties, the Tribunal passed the judgment and award which is under challenge in this appeal.

3.0 Heard. It was the case of the appellant before the Tribunal that on the day of incident she was traveling in the the bus owned by opponent No.2. According to her since there was very heavy rush of passengers on that day, the driver of the bus did not stop the bus at the bust stop and instead stopped the same near Muslim-Musafar Khana. She has further stated that while she was alighting from the bus near Muslim-Musafar Khana, the driver of the bus all of a sudden drove the bus on account of which she fell down and sustained injuries. The appellant,

in support of her case, has placed reliance on evidence of one witness-Ravindra. However, the opponent has controverted the story put forward by the appellant. According to him on the day of incident the appellant tried to alight from the running bus near Muslim-Musafar Khana and since she had put on high heel shoes at that time, she fell down. The story put forward by the opponent is supported by the evidence of witness-Ravindra. Ravindra has practically accepted in his evidence before the Tribunal that the rush of passengers boarding from the Kalupur-Ghee Kanta stop is very less. Therefore, the story of the appellant that opponent No.1 did not stop the bus at bus stop requires to be rejected. It may also be noted that appellant and witness-Ravindra are known to each other, and hence, the evidence of the said witness cannot be said to be impartial or genuine. Hence, the story put forward by the opponent that the appellant while trying to alight from the running bus fell down and sustained injuries requires to be accepted. The Tribunal, therefore, is justified in coming to

the conclusion that since the appellant has failed to prove the negligence on the part of the driver of the bus, she is not entitled for any compensation. I am in complete agreement with the reasoning adopted and the findings arrived at by the Tribunal, and hence, find no reason to interfere in this appeal.

4.0 In the result the appeal stands dismissed. No order as to costs.

Umesh/

(K.S. Jhasri, J.)